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January 4, 2005

RECEIVED

via Hand Delivery
Ms. Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Case 2005-00019

JAN 4 2005

PUBLIC SERVICE
COMMISSION

Re: *Kentucky RSA #3 Cellular General Partnership ("RSA #3") Petition for Designation as Eligible Telecommunications Carrier in the Commonwealth of Kentucky*

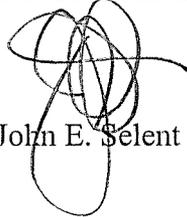
Dear Ms. O'Donnell:

Enclosed for filing with the Public Service Commission of the Commonwealth of Kentucky (the "Commission") is one original and ten (10) copies of RSA #3's Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky in the above-styled case.

In addition, enclosed is a copy for file-stamping. Please return this copy to us in the self-addressed, postage prepaid envelope furnished herewith. Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

JES/HCW/rk

Enclosure

cc: Ron Smith (with enclosure)

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BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION

JAN 4 2005

PUBLIC SERVICE
COMMISSION

In the matter of:

**KENTUCKY RSA #3 CELLULAR GENERAL)
PARTNERSHIP PETITION FOR DESIGNATION AS)
AN ELIGIBLE TELECOMMUNICATIONS CARRIER) Case No. 2005-00019
IN THE COMMONWEALTH OF KENTUCKY)**

**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE COMMONWEALTH OF KENTUCKY**

1. Kentucky RSA #3 Cellular General Partnership ("RSA #3"), by counsel, and pursuant to section 214 of the Telecommunications Act of 1996 (the "Act"), hereby submits its Petition for Designation ("Petition") as an eligible telecommunications carrier ("ETC") in the Commonwealth of Kentucky.

2. RSA #3 is a cellular telephone carrier providing digital wireless telecommunications services in Kentucky Rural Service Area #3 serving Allen, Breckinridge, Butler, Edmonson, Grayson, Hancock, Logan, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd and Warren counties. RSA #3 seeks designation as an ETC for both study areas of rural telephone companies as defined in 47 U.S.C. § 153(37), as well as wire centers of non-rural incumbent local exchange carriers ("ILECs").¹ As demonstrated herein, and certified in Exhibit B to this Petition, RSA #3 satisfies all of the requirements for designation as an ETC in each of the Designated Areas and respectfully requests that the Kentucky Public Service Commission (the "Commission") promptly grant its Petition.

**I. RSA #3 MEETS ALL THE REQUIREMENTS FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER TO SERVE THE
DESIGNATED AREAS IN THE COMMONWEALTH OF KENTUCKY.**

¹ A list of the rural telephone company study areas and non-rural ILEC wire centers ("Designated Areas") for which RSA #3 seeks designation in this Petition is attached as Exhibit A.

3. Pursuant to 47 U.S.C. § 214(e)(2), the Commission, "consistent with the public interest, convenience and necessity . . . may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as [the] requesting carrier meets the requirements of paragraph (1)" of Section 214(e). Wireless telecommunications carriers, such as RSA #3, are eligible to be designated as ETCs. *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997). RSA #3 satisfies the requirements of paragraph (1) of Section 214(e); therefore, the Commission should designate RSA #3 as an ETC for the Designated Areas.

"A common carrier designated as an eligible telecommunications carrier. . . shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

47 U.S.C. § 214(e)(1).

4. Pursuant to this statute, so long as a telecommunications carrier offers the services supported by the Universal Service Fund using its own facilities or a combination of its own facilities and those of another telecommunications carrier, and advertises the availability of such services, "a State commission shall . . . designate [the] common carrier . . . as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). The services supported by the Universal Service Fund are: 1) voice grade access to the public switched network, 2)

local usage, 3) dual tone multi-frequency signaling or its functional equivalent, 4) single-party service or its functional equivalent, 5) access to emergency services, 6) access to operator services, 7) access to interexchange service, 8) access to directory assistance, and 9) toll limitation for qualifying low-income consumers. *See* 47 C.F.R. § 54.101(a). As demonstrated below, and as set forth in the declaration of Ron Smith, authorized representative of RSA #3, RSA #3 offers all of the services supported by the Universal Service Fund using a combination of its own facilities and those of other telecommunications carriers, and advertises the availability of those services. (*See* Exhibit B, Declaration of Ron Smith). Accordingly, the Commission should grant RSA #3's petition.

A. **RSA #3 Will Provide Service Using a Combination of its Own and Others' Facilities.**

5. RSA #3 is a full service wireless carrier that offers all of the services supported by the Universal Service Fund throughout its licensed service area utilizing a combination of its own facilities and facilities leased from other telecommunications carriers.

B. **RSA #3 Offers All Required Services and Functionalities.**

6. RSA #3 offers, or will offer upon designation as an ETC in the Designated Areas, all of the services and functionalities required by 47 C.F.R. § 54.101(a) as specified below.

(i) **Voice grade access to the public switched telephone network.**

7. Voice grade access to the public switched telephone network ("PSTN") is defined as "a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz." 47 C.F.R. § 54.101(a)(1). RSA #3 services enable customers to transmit voice communications, including placing and receiving calls. RSA #3 offers this service at a bandwidth between 300 and 3,000 Hertz. Therefore, RSA #3 offers voice grade access to the public switched network within the meaning of 47 C.F.R. § 54.101(a)(1).

(ii) Local usage.

8. Local usage is defined as "an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users." 47 C.F.R. § 54.101(a)(2). RSA #3 has a variety of rate plans which provide local usage for its subscribers. Moreover, as a designated ETC, RSA #3 will comply with any and all minimum local usage requirements required by applicable law.

(iii) Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.

9. Section (a)(3) of 47 C.F.R. 54.101 provides for supported services to include "dual tone multi-frequency signaling or its functional equivalent." Dual tone multi-frequency ("DTMF") is defined as "a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time." *Id.* RSA #3 provides DTMF signaling to facilitate the transportation of signaling throughout its network. RSA #3 uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.

(iv) Single-party service or its functional equivalent.

10. Single-party service is defined as "telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the

case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission." 47 C.F.R. § 54.101(a)(4). RSA #3 provides customers with single-party access for the duration of every phone call. RSA #3 does not provide "multi-party" or "party line" services. Accordingly, RSA #3 provides single-party service within the meaning of the FCC's regulations.

(v) **Access to 911 and E911 emergency service.**

11. "Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations." 47 C.F.R. § 54.101(5). RSA #3 provides universal access to the 911 system for its customers, and has implemented and will continue to implement enhanced 911 ("E911") services consistent with the FCC's Rules and Orders and local public service access point ("PSAP") requests.

12. RSA #3 currently has one Phase I request pending. All other PSAPs are live Phase I. RSA #3 also has one PSAP operating Phase II TDMA. Phase II TDMA/CDMA is pending in approximately four counties. Phase II CDMA is pending in one county.

(vi) **Access to operator services.**

13. Access to operator services is defined as "access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." 47 C.F.R. § 54.101(6). RSA #3 offers all of its customers access to operator services in accordance with FCC regulations.

(vii) **Access to interexchange service ("IXC").**

14. Access to interexchange service is defined as "the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's

network." 47 C.F.R. § 54.101(7). RSA #3 customers can use the RSA #3 network for interexchange access to place long distance phone calls. Access is provided through interconnection agreements with several interexchange carriers.

(viii) Access to directory assistance.

15. Access to directory assistance is defined as "access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings." 47 C.F.R. § 54.101(8). All RSA #3 customers are able to dial "411" or "555-1212" to access directory assistance.

(ix) Toll limitation for qualified low-income consumers.

16. Toll limitation for qualifying low-income consumers is defined as "toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, toll limitation denotes both toll blocking and toll control." 47 C.F.R. § 54.400(d). Toll blocking "is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." 47 C.F.R. § 54.400(b). "Toll control is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle." 47 C.F.R. § 54.400(c).

17. In accordance with the FCC's Rules, RSA #3 will make toll limitation services available to qualifying low-income consumers upon designation as an ETC. RSA #3 already has toll limitation capabilities and is providing toll limitation features to some of its customers. Upon designation as an ETC, RSA #3 will offer these services to consumers who meet the qualifications for Lifeline as specified in 47 C.F.R. § 54.409.

C. RSA #3 Will Advertise the Availability of Supported Services.

18. RSA #3 will advertise the availability of the supported services detailed above, as well as the charges therefore, using media of general distribution in accordance with 47 C.F.R. § 54.201(d)(2). The methods of advertising utilized may include newspapers, magazines, radio, or television as well as other methods that constitute media of general distribution in the Designated Areas of Kentucky.

II. RSA #3 REQUESTS DESIGNATION THROUGHOUT EACH OF THE DESIGNATED AREAS WITHIN ITS SERVICE COVERAGE.

19. RSA #3 is not a rural telephone company as defined in 47 U.S.C. § 153(37). Accordingly, RSA #3 is required to describe the geographic areas within which it requests designation as an ETC. RSA #3 requests designation as an ETC throughout each of the Designated Areas within the Commonwealth of Kentucky, as set forth in Exhibit A. As noted above, these Designated Areas consist of study areas of rural telephone companies that RSA #3 or a related cellular telephone carrier serves in their entirety (with one exception) as well as wire centers of non-rural ILECs.² A map of RSA #3's service area, within which RSA #3 or a related cellular telephone carrier provides service to the entirety of the Designated Areas, with the one exception noted above, is attached as Exhibit C.³

III. IN ACCORDANCE WITH 47 U.S.C. § 214(e)(2), RSA #3 IS ENTITLED TO BE DESIGNATED AS AN ETC IN NON-RURAL WIRE CENTERS.

20. Pursuant to 47 U.S.C. §214(e) and 47 C.F.R. § 54.201(c), RSA #3 is entitled to be granted ETC status by the Commission with respect to the non-rural wire centers identified in Exhibit A. "A State commission *shall* upon its own motion or upon request designate a common

² The one exception is the rural study area for Kentucky Alltel, Inc. - London. RSA #3 seeks ETC designation for the following Kentucky Alltel, Inc. - London wire centers: BSPKYXA, BWVLKYXA, CKSNKYXA, CYVLKYXA, MMCVKYXA, PRCYKYXA, SMGVKYXA.

carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). Given RSA #3 satisfies the requirements of paragraph (1) of 47 U.S.C. § 214(e) as described above, the Commission should grant RSA #3's petition with regard to the non-rural wire centers identified in Exhibit A.

IV. DESIGNATION OF RSA #3 AS AN ETC FOR THE DESIGNATED AREAS SERVED BY A RURAL TELEPHONE COMPANY IN KENTUCKY WOULD SERVE THE PUBLIC INTEREST.

21. With regard to areas served by rural telephone companies as defined in 47 U.S.C. § 153(37), the Commission must determine not only that RSA #3 will satisfy the requirements set forth above, but that RSA #3's designation as an ETC in those areas would serve the public interest.⁴ As demonstrated below, RSA #3's designation as an ETC would serve the public interest in all of the Designated Areas.

22. The FCC has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."⁵ This is particularly applicable in the Designated Areas served by rural telephone companies within the Commonwealth of Kentucky, many of which are not presently served by competitive wireline carriers that could provide an alternative to the ILEC. Designation of RSA #3 as an ETC would promote competition and facilitate the provision of advanced communications services to residents of rural Kentucky. Consumers would reap the benefits of wireless service and, where requested by the public service access point, global positioning satellite location assistance for customers calling 911.

³ The map of RSA #3's service area will be provided under separate cover.

⁴ See 47 U.S.C. § 214(e)(2).

23. Designation of RSA #3 as an ETC will also provide an incentive to the ILECs in the Designated Areas to improve existing networks to remain competitive, resulting in improved services to consumers. Moreover, RSA #3's ETC status will benefit consumers by ensuring that quality services are available at just, reasonable, and affordable rates in accordance with the Act.⁶

24. Designation of RSA #3 as an ETC will also serve the public interest in all of the Designated Areas because RSA #3 will provide all of the supported services required by applicable law, participate in the LifeLine and Link Up programs as required by the FCC, and otherwise comply with all FCC regulations governing universal service programs. Allowing RSA #3 access to universal service subsidies will allow RSA #3 to bring competition to underserved, high-cost areas of the Commonwealth of Kentucky, and to continue to enhance and expand its network infrastructure to better serve consumers in those areas. Accordingly, designation of RSA #3 as an ETC will serve the public interest.

V. ANTI-DRUG ABUSE CERTIFICATION.

25. No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.13.

VI. CONCLUSION.

26. For the foregoing reasons, and in accordance with the Act and the FCC's regulations, RSA #3 respectfully requests that the Commission promptly grant its petition for designation as an eligible telecommunications carrier.

⁵ See Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, Memorandum Opinion and Order, CC Docket No. 94-45, 16 FCC Rcd 48, 55 (2000).

⁶ See 47 U.S.C. § 254(b)(1).

Respectfully submitted,



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96810v1

EXHIBIT A

Designated Areas of Kentucky for which Kentucky RSA #3 Cellular General Partnership Seeks Designation as an Eligible Telecommunications Carrier

Rural Telephone Company Study Areas

260398	Brandenburg Telephone Company, Inc.
269691	Kentucky Alltel, Inc. - London
260412	Lewisport Telephone Company, Inc.
260413	Logan Telephone Cooperative, Inc.
264001	North Central Telephone Cooperative, Inc.

Non-Rural ILEC Wire Centers

265182 **BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone**

South Central Bell	BLSPKYMA
South Central Bell	BRMNKYMA
South Central Bell	BVDMKYMA
South Central Bell	BWLGKYMA
South Central Bell	BWLGKYRV
South Central Bell	CLHNKYMA
South Central Bell	CLPTKYMA
South Central Bell	CNCYKYMA
South Central Bell	CNTWKYMA
South Central Bell	DRBOKYES
South Central Bell	EKTNKYMA
South Central Bell	FDVLKYMA
South Central Bell	FKLNKYMA
South Central Bell	GNVLKYMA
South Central Bell	GTHRKYMA
South Central Bell	HRBGKYES
South Central Bell	HRFRKYMA
South Central Bell	HWVLKYMA
South Central Bell	ISLDKYMA
South Central Bell	LVMRKYMA
South Central Bell	MCDNKYMA
South Central Bell	MGTWKYMA
South Central Bell	PLRGKYMA
South Central Bell	RLVLKYMA
South Central Bell	SCRMKYMA
South Central Bell	SHGVKYMA

South Central Bell TRENKYMA
South Central Bell WHVLKYMA

269690 Kentucky Alltel, Inc. - Lexington

Kentucky Alltel LTFDKYXA

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

**KENTUCKY RSA #3 CELLULAR GENERAL)
PARTNERSHIP PETITION FOR DESIGNATION AS)
AN ELIGIBLE TELECOMMUNICATIONS CARRIER))
IN THE COMMONWEALTH OF KENTUCKY)**

Case No. _____

DECLARATION OF RON SMITH

I, the undersigned Ron Smith, do hereby declare under penalty of perjury as follows.

1. I am the authorized representative of Kentucky RSA #3 Cellular General Partnership ("RSA #3").

2. RSA #3 is a cellular telephone carrier providing digital wireless telecommunications services in Kentucky Rural Service Area # 3.

3. I declare and certify, as described in RSA #3's attached petition for eligible telecommunications carrier status, that RSA #3 offers, or will offer, all of the services supported by the Universal Service Fund pursuant to 27 U.S.C. § 254(c)(3); that RSA #3 offers, or will offer, the supported services using a combination of its own facilities and those of other carriers; and that RSA #3 advertises, or will advertise, the availability of supported services, and the charges therefore, using media of general distribution.

4. I further declare that the foregoing, as well as the content of the attached petition for eligible telecommunications carrier status is, to the best of my knowledge and belief, true and correct.

5. I further declare that to the best of my knowledge and belief, RSA #3, including its officers, directors and shareholders, is not subject to denial of federal benefits pursuant to 21 U.S.C. § 862.

A handwritten signature in cursive script that reads "Ron Smith" followed by a stylized monogram or initials.

Ron Smith
Authorized Representative
Kentucky RSA #3 Cellular General Partnership

Dated: January 4, 2005.